

Sentence Review Division  
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Helena, MT 59620-3005  
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(406) 841-2976

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA

STATE OF MONTANA,	)	Cause No. DC-04-123
	)	
Plaintiff,	)	Missoula County District Court
	)	Montana Fourth Judicial District
	)	
-vs-	)	<b>DECISION</b>
	)	
KELLY GENE SVIR,	)	
Defendant.	)	

On May 28, 2019, the Defendant's suspended sentence was revoked and he was sentenced to the Department of Corrections for a term of three (3) years, for the offense of Count I: Driving While Under the influence of Alcohol, Fourth or Subsequent Offense, a Felony, in violation of §61-8-401(1)(a), MCA. The Court recommended treatment. The Court granted the Defendant credit for time served in the amount of 165 days.

On November 8, 2019, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division"). The Defendant appeared by video conferencing from the Crossroads Correctional Center and was represented by Stephanie DeBoer, Defense Counsel. The State was not represented.

Before hearing the Application, the Defendant was advised that the Division has the authority not only to reduce the sentence or affirm it, but also increase it. The Defendant was further advised that there is no appeal from a decision of the Division. The Defendant acknowledged that he understood this and stated that he wished to proceed.

Rule 12, Rules of the Sentence Review Division of the Supreme Court of Montana, provides that, "The sentence imposed by the District Court is presumed correct. The sentence shall not be reduced or increased unless it is clearly inadequate or clearly excessive." (Section 46-18-904(3), MCA).

The Division finds that the reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

Therefore, it is the unanimous decision of the Division that the sentence is **AFFIRMED**.

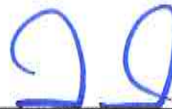
Done in open Court this 8<sup>th</sup> day of November, 2019.

DATED this 11<sup>th</sup> day of December, 2019.

SENTENCE REVIEW DIVISION



Hon. Brenda Gilbert, Chairperson



Hon. Dan Wilson, Member



Hon. Luke Berger, Member

Copies mailed this 13<sup>th</sup> day  
of December, 2019, to:

Clerk of District Court (Original)  
Kelly Gene Svir #2045905, Defendant (2)  
Hon. John Larson  
David Maldonado, Defense Counsel  
Jennifer S. Clark, Esq.  
Board of Pardons and Parole  
MSP - Records Dept.



Georgia Lovelady, Judicial Assistant  
Sentence Review Division